ANDA 74-657 August 20, 1999

Invamed, Inc.
Attention: Mahendra Patel, Ph.D.
2400 Rt. 130 North
Dayton, NJ 08810

Dear Sir:

This is in reference to your abbreviated new drug application dated April 8, 1995, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act for Terazosin Hydrochloride Tablets, 1 mg (base), 2 mg (base), 5 mg (base) and 10 mg (base).

Reference is also made to the Tentative Approval letter issued by this Office on March 7, 1997, and to your amendments dated September 25, and October 1, 1997; September 30, 1998; and July 15, and July 23, 1999.

We have completed the review of this abbreviated application as amended, and have concluded that based upon the information you have presented to date, the drug product is safe and effective for use as recommended in the submitted labeling. Therefore, the application remains tentatively approved. This determination is based upon information available to the Agency at this time (i.e., information in your application and the status of current good manufacturing practices (CGMPs) of the facilities used in the manufacture and testing of the drug product), and is subject to change on the basis of new information that may come to our attention.

The reference listed drug product referenced in your application, Hytrin Tablets of Abbott Laboratories Pharmaceutical Products Division, is subject to periods of patent protection which expire on April 29, 2013 (U.S. Patents No. 5,504,207 [the ‘207 patient] 5,294,615 [the ‘615 patent], and 5,412,095 [the ‘095 patent]), June 29, 2010 (U.S. Patent No. 5,212,176 [the ‘176 patent]) and February 17, 2000 (U.S. Patent No. 4,251,532 [the ‘532 patent]). With the exception of the ‘207 patent, all regulatory issues pertaining to these patents were resolved in Invamed’s favor upon issuance of the agency’s tentative approval letter. Subsequently, Invamed Inc. made a patent certification under Section 505(j)(2)(A)(vii)(IV) of the Act stating that your manufacture, use or sale of this drug product will not infringe the ‘207 patent, or that the ‘207 patent is invalid or

unenforceable. Section 505(j)(5)(B)(iii) of the Act provides that approval of an abbreviated application shall be made effective immediately unless an action for patent infringement is brought before the expiration of forty-five days from the date the notice provided under paragraph (2)(B)(I) is received by the owner of the new drug application (NDA) for the reference listed drug product (Hytrin Tablets) and the patent holder. You have notified the agency that Invamed Inc. (Invamed) has complied with the requirements of Section 505(j)(2)(B) of the Act and that Abbott Laboratories initiated a patent infringement suit against Invamed in the United States District Court for the Northern District of Illinois – Eastern Division [Abbott Laboratories vs. Invamed, Inc., Civil Action No. 97C7587 (N.D. III)]. You have also notified the agency that on August 28, 1998, the court entered summary judgement for Invamed in that lawsuit.

However, we are unable to grant final approval for your application at this time. The district courts in both Inwood and Mova held that 180 days of marketing exclusivity should be granted to the first ANDA applicant who files a Paragraph IV Certification, regardless of whether that applicant is subsequently sued for patent infringement. As a result, the agency will not enforce the "successful defense" provision of Section 314.107(c)(1) and the related provision in 314.107(c)(4). Please be aware that an abbreviated application for Terazosin Tablets containing a Paragraph IV Certification was previously accepted for filing by this Office prior to the filing of your application. Accordingly, your application will be eligible for final approval beginning on the date that is one hundred and eighty (180) days after (1) the date the Secretary receives notice of the first commercial marketing of the drug under the previous application; or (2) the date of a decision of a court holding the remaining patents which have not the subject of a court decision to be invalid or not infringed, whichever event occurs first (Section 505(j)(5)(B)(iv). At this time, the agency does not believe that the provisions of either (1) or (2) have been met. We refer you to the Agency's recently issued guidance document entitled "180-Day Generic Drug Exclusivity Under the Hatch-Waxman Amendments" (June 1998), for additional information.

Because the Agency is granting a tentative approval for this application, please submit an amendment at least 60-days but not more than 90-days prior to the date you believe your application will be eligible for final approval. This amendment should identify changes, if any, in the conditions under which the drug product was tentatively approved, and should include updated information such as final-printed labeling, chemistry, manufacturing and controls data as appropriate. Alternatively, this amendment should be submitted stating that no changes have

been made to the terms of the application since the date of this second tentative approval. This amendment should be designated clearly in your cover letter as a MINOR amendment. In addition to, or instead of this amendment, the Agency may request at any time prior to the date of final approval of this application that you submit an amendment containing the information described above. Failure to submit either or, if requested, both amendments may result in rescission of the tentative approval status of your application, or may result in a delay in the issuance of the final approval letter.

Any changes in the conditions outlined in this abbreviated application as well as changes in the status of the manufacturing and testing facilities' compliance with current good manufacturing practices (CGMPs) are subject to Agency review before final approval of the application will be made.

The drug product that is the subject of this abbreviated application may not be marketed without final Agency approval under section 505 of the Act. The introduction or delivery for introduction into interstate commerce of this drug before the final approval date is prohibited under section 501 of the Act. Also, until the Agency issues the final approval letter, this drug product will not be listed in the Agency's "Approved Drug Products with Therapeutic Equivalence Evaluations" list.

Prior to submitting the amendment(s), please contact Ruby Yu, Project Manager, at (301) 827-5848, for further instructions.

Sincerely yours,

Douglas L. Sporn
Director
Office of Generic Drugs
Center for Drug Evaluation and Research